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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/034,780

12/27/2001

Ioannis Pavlidis

H0002442-2

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03/21/2006

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EXAMINER

LAVIN, CHRISTOPHER L

ART UNIT

PAPER NUMBER

2624

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|----------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/034,780 | Applicant(s) PAVLIDIS ET AL. | |
| | Examiner Christopher L. Lavin | Art Unit 2621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/28/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The examiner maintains all previous rejections from the office action dated 08/25/05. Please refer back to that office action.

Response to Arguments

3. Applicant's arguments filed 12/28/05 have been fully considered but they are not persuasive.
4. First, to clear things up, the examiner would like to state that Menon was brought in to teach a simple and well known concept in the art. That concept was to check was to check all possible items for a match and then select the best match. Menon clearly teaches this. Menon compares a pattern to every possible category, then the best match is chosen. There is clear motivation to make this change to Stauffer, both in what the examiner has provided and even in Menon, for example (col. 5, line 65 – col. 6, line 8) Menon teaches that a pattern can be matched to multiple categories, as long as it meets a threshold. Stauffer also uses a threshold to determine a match. So Menon is teaching that a match threshold is not good enough to guarantee the best match, and therefore all of the categories should be checked before determining a best match. Obviously using the best match instead of the first match will lead to more accurate results.

Art Unit: 2621

5. In regards to applicant's first argument "there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Stauffer et al. with the teachings of Menon et al."

The examiner did provide motivation and as previously discuss Menon also provides motivation for this combination. As cited in MPEP 2143.01

"Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art."

The examiner is one of ordinary skill in the art, and therefore has provided the motivation required to prove obviousness. It should also be pointed out that in the art of image processing the definition of one of ordinary skill in the art is quite high.

6. The applicant next argues on page 4 that "Such a process described in column 5 and 6 of Menon et al. [...] is quite unlike the present invention".

The examiner cited Menon for the concept of finding the best match instead of the first match, not for the actual use of Menon.

7. The applicant then argues on page 5 that "the training of Menon et al. is precursor process that uses previously captured training data [...]".

Again the examiner cited Menon for the concept and not the implementation or approach used.

8. Continuing on page 5, applicant states "Such a conslutory statement is not sufficient motivation or suggestion to apply such an isolated step described in Menon et

al. to the process of Stauffer et al.” As previously shown, the examiner provided motivation as required by MPEP 2143.01. And it was also shown that Menon also provides motivation for the combination.

9. Finally starting on page 5 and continuing through page 6 the applicant provides further details about the invention that are not taught by Stauffer. The examiner suggests that the applicant attempt to incorporate some of this material into the claims in order to overcome Stauffer.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher L. Lavin whose telephone number is 571-272-7392. The examiner can normally be reached on M - F (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh M. Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Lavin

A handwritten signature in black ink, appearing to read 'Christopher Lavin', with a stylized, cursive script.A handwritten signature in black ink, appearing to read 'Brian Werner', with a stylized, cursive script.
BRIAN WERNER
PRIMARY EXAMINER